



MEMORANDUM

To: PLANNING COMMISSION

Date: September 12, 2006

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: ZONING AMENDMENT APPLICATION, ZAA-05-11: CITY OF MORGAN HILL-DOWNTOWN ZONING AMENDMENTS.

REQUEST

A request for amendment(s) to Title 18 of the Morgan Hill Municipal Code: Adding Chapter 18.23 (Downtown Ground Floor Overlay District) to implement the Morgan Hill Downtown Plan recommendation of encouraging retail, restaurant, entertainment and related uses and rezoning certain properties generally located on Monterey Road between Main Avenue and 5th Street and on 3rd Street between Monterey Road and Depot Street; Amending Chapter 18.24 (CC-R - Central Commercial/Residential District) by reorganizing allowable use categories into Permitted Uses and Conditional Uses; and, Amending Chapter 18.54 (Conditional and Temporary Use Permits) by modifying findings required for approval of a Downtown Administrative Use Permit, establishing a three year time limit, and a process for extensions.

RECOMMENDATION

Environmental Assessment: A Mitigated Negative Declaration was adopted in conjunction with the Downtown Plan, which addressed actions necessary to implement the Plan.

Application ZAA 05-11: Recommend City Council approval of the proposed Downtown Ground Floor (GF) Overlay District zoning text as shown in Exhibit "A", rezoning of parcels to include the GF district as shown in Exhibit "B", zoning text amendments to Chapter 18.24 (CC-R – Central Commercial – Residential) as shown in Exhibit "C", and zoning text amendments to Chapter 18.54 (Conditional and Temporary Uses) as shown in Exhibit "D" of the attached resolution.

Processing Deadline:

N/A – The Permit Streamlining Act does not apply to legislative acts.

BACKGROUND

One of the policies of the 2003 Downtown Plan is to encourage retail, restaurant, entertainment and service commercial businesses on portions of Monterey Road and Third Street in an effort to enhance the pedestrian character of downtown. Accordingly, in 2004 the CC-R zoning district was amended to restrict certain ground floor non-retail uses, consistent with this policy. In particular, office and personal service uses became conditionally permitted requiring a Conditional Use Permit (CUP). Shortly after those code amendments went into effect, building owners and potential tenants expressed frustration at the time and expense required to comply with the CUP requirement for certain buildings and locations downtown.

In the fall of last year, planning staff processed additional code amendments which streamlined the process for conditional uses in the CC-R District by establishing a Downtown Administrative Use Permit (DAUP) process. Following approval of the ordinances, the Council directed staff to work on some follow-up amendments requested by the Downtown Association that would:

- Focus the “ground floor retail restricted area” to between Main and Dunne;
- Exclude certain buildings that were designed for office use;
- Allow DAUP’s when the retail vacancy rate exceeds five-percent; and,
- Impose a time limit on DAUP’s to three years.

CASE ANALYSIS

Downtown Ground Floor Overlay District (Proposed Chapter 18.23). In an effort to accomplish the first two objectives, there are two factors that make it difficult to work within the confines of the language contained in the existing CC-R district:

1. The CC-R district extends beyond the boundaries of the Downtown Plan (see attached map); and,
2. The current CC-R district ordinance is extremely complex and tries to do too much. It includes the following six use categories:
 - Permitted uses for first floor locations for parcels fronting on Monterey or Third;
 - Conditional uses for first floor locations on parcels fronting on Monterey or Third;
 - Permitted uses for second story or above locations for parcels fronting on Monterey or Third;
 - Conditional uses for second story or above locations for parcels fronting on Monterey or Third;
 - Permitted uses for parcels not fronting on Monterey or Third; and
 - Conditional uses for parcels not fronting on Monterey or Third.

By comparison, other zoning districts only have use categories for principally and conditionally permitted uses.

In an effort to more effectively distinguish between the ground floor restricted areas and the rest of the CC-R zone, as well as to exclude buildings that clearly have very little potential for retail use, staff is proposing to create a new Downtown Ground Floor (GF) Overlay District (included as Exhibit "A of the Planning Commission Resolution). Consistent with Figure 7 in the Downtown Plan (map attached), the proposed new GF Overlay District would apply to:

- The west side of Monterey Road between Main Avenue and Fourth Street;
- The east side of Monterey Road between Main Avenue and Fifth Street; and
- Third Street between Monterey Road and Depot Street.

Staff is proposing that this district apply to all portions of the property within 75 feet of the property line fronting on Monterey Road or Third Street. Since most of the lots in this area are 150 feet in depth, the proposed district would apply to the front half of most of the properties. This approach would allow for office or personal service uses to have ground floor frontage toward the rear of buildings accessible from side streets on corner lots or from parking lots on interior lots.

Two buildings clearly intended for office uses are proposed to be excluded from the district (photos attached), located at:

- The southwest corner of Monterey Road and First Street; and,
- The southeast corner of Monterey Road and Fourth Street.

The parcels proposed for rezoning are included as Exhibit "B" to the Planning Commission Resolution.

CC-R District Amendments (Chapter 18.24). The CC-R District is proposed to be reformatted to be consistent with the other zoning districts including principally and conditionally permitted uses. Additional text proposed in the CC-R chapter recognizes that the GF overlay supersedes the CC-R for ground floor uses on properties located in both zoning districts.

One "clean up" item that staff is proposing has to do with retail on West Main Avenue. Currently, the CC-R District prohibits retail "west of the parcels fronting the west side on Monterey Road." This ordinance was intended to implement a policy of the Downtown Plan that seeks to maintain the cohesive residential neighborhood west of Monterey Road. Figure 6 of the Downtown Plan (attached), however, indicates that this area (labeled as "Residential Conservation and Enhancement") does not apply to West Main Avenue, which extends out to Crest Avenue and includes several retail buildings. As a result, all retail uses in the CC-R District along West Main have become non-conforming. Staff is proposing changes to the ordinance which clarify that retail is prohibited in the CC-R District west of Monterey on First, Second, Third and Fourth Street(s).

The proposed amendments to the CC-R District are included as Exhibit “C” of the attached Planning Commission Resolution. Added language is italicized, while deleted language is struck out. Since reorganization of this zoning district results in some fairly major changes, staff has also included a clean version in its entirety without the strikeouts and underlines.

DAUP Amendments (Chapter 18.54). The “findings” section has been restructured such that one of three criteria needs to be met in order to obtain a DAUP:

1. The space has been unsuccessfully advertised for 90 days. This criteria was present in the original ordinance and no changes are proposed.
2. The vacancy rate for commercial space exceeds five-percent in the GF district. Bi-annual surveys are required to be provided by the Downtown Association, which staff would use in making this finding.
3. Personal service uses are allowed if the applicant can demonstrate that the use provides display window visual interest that includes a retail component.

An existing finding which allows a DAUP to be approved if the use is proposed in a building that is not designed and/or located appropriately to accommodate retail use(s) has been eliminated since the purpose of the new GF Overlay District, in part, is to exclude such buildings.

It should also be noted that finding no. 3 is being proposed by staff as a new criteria for issuance of a DAUP. The Downtown Plan sends mixed messages regarding personal service uses. In some areas of the plan, personal service uses are encouraged in the ground floor restricted area, while in other areas of the plan these types of uses are included with professional office uses that are characterized as disrupting pedestrian retail activity. The consistent overall goal, however, is to encourage businesses that “support a continuity of display window visual interest.” To reconcile this contradiction, staff is recommending an additional criterion that would allow personal service uses with a DAUP if it can be demonstrated that the use includes a window display with a retail component.

Lastly, a new section has been added to this chapter which places a three year expiration on DAUP’s. This timeframe was suggested by the Downtown Association to coincide with a typical commercial lease. This section also allows for extensions to be granted by the Community Development Director, as long as one of the above criteria is met.

The proposed amendments to this chapter are included as Exhibit “D” to the Planning Commission Resolution.

Chamber of Commerce/Downtown Association Input. The amendments proposed by staff have been reviewed by both the Chamber of Commerce and the Downtown Association. While the Chamber of Commerce chose not to take a formal position, the Downtown Association was in support.

RECOMMENDATION

The proposed amendments are consistent with both the Downtown Plan, as well as previous direction given by the City Council. The Downtown Association is in support of the proposed zoning amendments. Staff is therefore recommending that the Planning Commission recommend City Council approval of the zoning amendments.

Attachments:

Resolution

CC-R District/Downtown Plan Boundary Map

Figure 7 – Downtown Plan

Office Buildings Excluded from GF Overlay District

Figure 6 – Downtown Plan

RESOLUTION NO. 06-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF TEXT AMENDMENTS ADDING SECTION 18.23 (GF – DOWNTOWN GROUND FLOOR OVERLAY) ZONING DISTRICT TO CHAPTER 18 OF THE MORGAN HILL MUNICIPAL CODE; REZONING CERTAIN PROPERTIES GENERALLY LOCATED ON MONTEREY ROAD BETWEEN MAIN AVENUE AND 5TH STREET AND ON 3RD STREET BETWEEN MONTEREY ROAD AND DEPOT STREET (APN'S 726-14-001 THROUGH -008, -010 THROUGH -014, -027 THROUGH -030, -036, AND -048 THROUGH -050; 767-07-010 THROUGH -011, -029 THROUGH -031, -047 THROUGH -050, -057, -058, -064, AND -066; 726-08-004, -006, -044 AND -045; 726-13-017 THROUGH -021, AND -037 THROUGH -044) TO INCLUDE THE GF OVERLAY DISTRICT; AMENDING CHAPTER 18.24 (CC-R CENTRAL COMMERCIAL/RESIDENTIAL DISTRICT) BY REORGANIZING ALLOWABLE USE CATEGORIES INTO PERMITTED USES AND CONDITIONAL USES; AND, AMENDING CHAPTER 18.54 (CONDITIONAL AND TEMPORARY USE PERMITS) BY MODIFYING FINDINGS REQUIRED FOR APPROVAL OF A DOWNTOWN ADMINISTRATIVE USE PERMIT, ESTABLISHING A THREE YEAR TIME LIMIT, AND A PROCESS FOR EXTENSIONS.

WHEREAS, such request was considered by the Planning Commission at its regular meeting of September 12, 2006, at which time the Planning Commission recommended approval of application ZAA-05-11: City of Morgan Hill – Downtown Zoning Amendments; and

WHEREAS, a Downtown Plan has been prepared by the City of Morgan Hill;

WHEREAS, one of the policies of the 2003 Downtown Plan is to encourage retail, restaurant, entertainment and service commercial businesses on portions of Monterey Road and Third Street shown on Figure 7 of the Downtown Plan in an effort to enhance the pedestrian character of downtown (“ground floor use restriction policy”); and

WHEREAS, while the Planning Commission of the City of Morgan Hill does wish to encourage retail, entertainment, and service commercial uses within the ground floor of structures located in this defined area of the Downtown, the Planning Commission also recognizes that certain buildings may not be appropriate for these types of uses in terms of design and that the market may not be sufficiently strong to allow for all ground floor space to be put to these uses, and having vacant ground floor space is not beneficial for the Downtown area; and

WHEREAS, the insertion of Chapter 18.23, GF – Downtown Ground Floor Overlay District to the Morgan Hill Municipal Code, and the rezoning of a portion of properties to include the GF District will implement the ground floor use restriction policy for appropriately designed buildings; and

WHEREAS, the zoning text amendments to the Chapter 18.24 (CC-R – Central Commercial/Residential), when considered in conjunction with the proposed GF Overlay District, will provide a consistent format with other zoning districts of Chapter 18 of the Municipal Code; and

WHEREAS, the zoning text amendments to Chapter 18.54 (Conditional and Temporary Uses) that modify the findings required for issuance of a Downtown Administrative Use Permit (DAUP) will ensure that there will not be an abundance of vacant space Downtown; and

WHEREAS, the zoning text amendments to Chapter 18.54 (Conditional and Temporary Uses) that establish a three year time limit on DAUP's (with provisions for extensions) will allow the City an opportunity to revisit certain uses at a later date to determine whether the circumstances upon which a DAUP was approved have changed; and

WHEREAS, a Mitigated Negative Declaration has been adopted and filed for a defined level of future residential, mixed use and non-residential development in the Downtown area in conjunction with the Downtown Plan and the proposed zoning text amendments and rezoning do not change these defined levels of development and no further review is required for compliance with the California Environmental Quality Act; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. The proposed zoning amendments and rezonings are consistent with the Zoning Ordinance, the General Plan, and the Downtown Plan.

SECTION 2. The proposed zoning amendments and rezonings are required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. The Planning Commission hereby recommends the adoption of Chapter 18.23, GF – Downtown Ground Floor Overlay District into the Morgan Hill Municipal Code as shown in Exhibit “A”, reclassification of a portion of properties as shown in Exhibit “B”, text amendments to the Chapter 18.24 (CC-R – Central Commercial/Residential) as shown in Exhibit “C”, and text amendments to Chapter 18.54 (Conditional and Temporary Uses) as shown in Exhibit “D”.

PASSED AND ADOPTED THIS 12th DAY OF SEPTEMBER, 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "A"

Chapter 18.23

GF DOWNTOWN GROUND FLOOR OVERLAY DISTRICT

Sections:

- 18.23.010 Purpose of district - Applicability.
- 18.23.020 Permitted uses.
- 18.23.030 Conditional uses

18.23.010 Purpose of district - Applicability.

A. To implement the Morgan Hill Downtown Plan, the Downtown Ground Floor Overlay District is intended to modify the uses allowed in the CC-R district to allow retail, restaurant and entertainment uses on the ground floor that support a continuity of display window visual interest. For the purposes of this chapter, "ground floor" means the first floor which is above grade. Where the Downtown Ground Floor Overlay District is combined with the CC-R District, the uses established by this chapter shall apply in lieu of the uses normally allowed in the CC-R District. Except for the regulations relating to uses set forth in this chapter, all other regulations shall be those of the applicable underlying CC-R District.

B. This district shall apply to parcels that have frontage along portions of Monterey and Third Street(s) as shown on the Zoning Map of the City of Morgan Hill, as may be amended from time to time. The district shall include all portions of the property within 75 feet of the property line fronting Monterey or Third Street(s).

18.23.020 Permitted uses.

The following uses shall be permitted in the GF Overlay District:

- A. Retail Stores;
- B. Restaurants;
- C. Financial Services;
- D. Nightclubs, theaters and bars;
- E. Commercial Service;
- F. Art and Craft Gallery;

18.23.030 Conditional uses.

(1) The following uses may be conditionally permitted in the GF Overlay District, subject to issuance of a Downtown Administrative Use Permit in accordance with Article IV of Chapter 18.54 of this title and finding of consistency with the Downtown Plan:

- A. Commercial, Professional Administrative and Medical Office uses;
- B. Personal Services.

(2) The following uses may be conditionally permitted in the GF Overlay District, subject to issuance of a Conditional Use Permit in accordance with Article I of Chapter 18.54 of this title and finding of consistency with the Downtown Plan:

- A. Convenience Markets/Stores;
- B. Commercial Indoor Recreation;
- C. Drycleaner;
- D. Any other use that the Planning Commission finds to be of similar nature to the permitted uses and conditional uses specified in this chapter for the GF Overlay District.

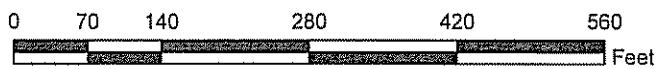


EXHIBIT "B"
ZAA05-11: City of Morgan Hill -
Downtown Zoning Amendments

 GF Overlay District



EXHIBIT "C"

Chapter 18.24

CC-R CENTRAL COMMERCIAL/RESIDENTIAL DISTRICT

Sections:

- 18.24.010 Purpose of district.
- ~~18.24.020 Permitted uses for first floor locations for parcels fronting on Monterey Road or Third Street.~~
- ~~18.24.030 Conditional uses for first floor locations on parcels fronting on Monterey Road or Third St.~~
- ~~18.24.040 Permitted uses for second story or above locations for parcels fronting on Monterey Road or Third Street.~~
- ~~18.24.050 Conditional uses for second story or above location for parcels fronting on Monterey Road or Third Street.~~
- 18.24.060 Permitted uses for parcels not fronting on Monterey Road or Third Street.
- 18.24.070 Conditional uses for all areas not fronting on Monterey Road or Third Street.
- 18.24.075 *Downtown Ground Floor Overlay District.***
- 18.24.080 Residential Development restrictions within the CC-R district.
- 18.24.090 Accessory uses.
- 18.24.100 Site development standards
- 18.24.110 Commercial uses--Performance standards.
- 18.24.120 Other required conditions.
(Ord. No. 1692 N.S. § 3, 2004)

18.24.010 Purpose of district.

The purposes of this CC-R central commercial/residential mixed-use district are to:

- A. Implement the goals and objectives of the Downtown Design Plan as recommended by the City Council in 2003 and as amended from time to time
- B. Preserve older architectural styles in the city;
- C. Provide for a variety and intermixture of residential and commercial activities in the downtown area; and
- D. Conserve housing stock. (Ord. 1692 N.S. § 18, 2004; Ord. 559 N.S. § A (part), 1981)

~~18.24.020 Permitted uses for first floor locations for parcels fronting on Monterey Road or Third Street.~~

~~The following uses shall be permitted in the CC-R district for first floor locations for parcels fronting on Monterey Rd. or Third St.:~~

- ~~A. Retail Stores;~~
- ~~B. Restaurants;~~

- C. ~~Financial Services;~~
- D. ~~Nightclubs, theaters and bars;~~
- E. ~~Commercial indoor recreation uses 3,000 sq. ft. or less in area.~~
- F. ~~Schools located between E. Duane Ave. and E. Fifth St. (Ord. No. 1692 N.S. § 3, 2004)~~

18.24.030 — ~~Conditional uses for first floor locations on parcels fronting on Monterey Road or Third Street.~~

~~—— The following uses may be conditionally allowed in the CC-R district on first floor locations on parcels fronting on Monterey Rd. or Third St., subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title and finding of consistency with the Downtown plan:~~

- A. ~~Residential units;~~
- B. ~~Convenience Markets/Stores;~~
- C. ~~Drive-in Establishments;~~
- D. ~~Commercial Indoor Recreation. (Ord. 1744 N.S. § 1, 2005; Ord. No. 1692 N.S. § 3, 2004)~~

~~The following uses may be allowed in the CC-R district on first floor locations on parcels fronting on Monterey Rd. or Third St., subject to issuance of a Downtown Administrative Use Permit in accordance with Article IV of Chapter 18.54 of this title:~~

- ~~—— A. ~~Commercial, Professional and Medical Office uses;~~~~
- ~~—— B. ~~Personal Services. (Ord. 1744 N.S. § 1, 2005)~~~~

18.24.040 — ~~Permitted uses for second story or above locations for parcels fronting on Monterey Road or Third Street.~~

~~—— The following uses in the CC-R district shall be permitted only in second story (or above) locations for parcels fronting on Monterey Rd. or Third St.~~

- A. ~~Single family attached, duplex and multi-family dwellings (see development restriction in section 18.24.070);~~
- B. ~~Personal Services;~~
- C. ~~Professional Offices;~~
- D. ~~Medical Offices~~
- E. ~~Small Family Day Care.~~
- F. ~~All permitted uses listed in Section 18.24.020. (Ord. No. 1692 N.S. § 3, 2004)~~

18.24.050 — ~~Conditional uses for second story or above location for parcels fronting on Monterey Road or Third Street.~~

~~—— The following uses in the CC-R district shall be conditional in second story (or above) locations for parcels fronting on Monterey Rd. or Third St. subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title and finding of consistency with the Downtown plan:~~

- ~~—A. — Schools~~
- ~~—B. — Convenience Markets/Stores;~~
- ~~—C. — Commercial Indoor Recreation. (Ord. No. 1692 N.S. § 3, 2004 Ord. 1495 N.S. § 12, 2001)~~

18.24.060 Permitted uses for parcels not fronting on Monterey Road or Third Street.

The following uses shall be permitted in the CC-R district for parcels not fronting on Monterey Rd. or Third St.:

- A. Single-family attached, detached, duplex and multifamily dwellings (see development restriction in section 18.24.080);
- B. Retail (excepting locations on First, Second, Third and Fourth Street(s) west of the parcels fronting the west side on of Monterey Rd.);
- C. Restaurants;
- D. Personal Services;
- E. Medical Offices;
- F. Professional Offices;
- G. Financial Services;
- H. Small Family Day Care. (Ord. No. 1692 N.S. § 3, 2004; Ord. 1495 N.S. § 13, 2001)
- I. *Commercial recreation uses 3,000 sq. ft. or less*
- J. *Schools*
- K. *Business Support Services*
- L. *Office, Administrative*
- M. *Arts and Crafts Gallery*
- N. *Food Service, Takeout*

18.24.070 Conditional uses for all areas not fronting on Monterey Road or Third Street.

The following uses may be conditionally allowed in all areas not fronting on Monterey Rd. or Third St., subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title and finding of consistency with the Downtown plan, if located therein:

- A. Convenience Markets/Stores;
- B. Drive-in Establishments;
- C. Nursery School/Large Family Day Care facility; ~~except on Monterey Rd.~~
- D. Commercial Indoor Recreation *uses greater than 3,000. sq. ft.* (Ord. No. 1692 N.S. § 3, 2004; Ord. 1495 N.S. § 14, 2001)
- E. *Nightclubs, theaters, and bars*
- F. *Any other use which the Planning Commission finds to be of a similar nature to the permitted uses and conditional uses specified in this chapter for the CC-R zoning district.*

18.24.075 *Downtown Ground Floor Overlay District.*

The ground floor combining district of Chapter 18.25 shall apply to the area of the CC-R district designated "GF" Overlay District as shown on the Zoning Map.

18.24.080 Residential Development restrictions within the CC-R district:

Single-family attached, duplex and multi-family dwellings in the CC-R district are subject to the following restrictions:

- A. Residential development control system approval is required for all residential development in accordance with Chapter 18.78 of this title.
- B. Residential development is allowed at a density of one dwelling per two thousand four hundred square feet or greater.
- C. Only one detached dwelling per parcel
- D. A Residential Planned Development zoning designation is required for development of more than one contiguous parcel proposed by the same individual or entity.
- E. Residential units on parcels fronting Monterey Rd., are permitted only on second story and above locations. No new residential units shall be allowed in the area bounded by Second Street, Depot Street, Fourth Street and Monterey Road, except as part of mixed use projects. (Ord. No. 1692 N.S. § 3, 2004)

PROPOSED ORDINANCE WITHOUT STRIKEOUTS AND ITALICS

Chapter 18.24

CC-R CENTRAL COMMERCIAL/RESIDENTIAL DISTRICT

Sections:

- 18.24.010 Purpose of district.
- 18.24.060 Permitted uses
- 18.24.070 Conditional uses
- 18.24.075 Downtown Ground Floor Overlay District
- 18.24.080 Residential Development restrictions within the CC-R district.
- 18.24.090 Accessory uses.
- 18.24.100 Site development standards
- 18.24.110 Commercial uses--Performance standards.
- 18.24.120 Other required conditions.

18.24.010 Purpose of district.

The purposes of this CC-R central commercial/residential mixed-use district are to:

- A. Implement the goals and objectives of the Downtown Design Plan as recommended by the City Council in 2003 and as amended from time to time.
- B. Preserve older architectural styles in the city;
- C. Provide for a variety and intermixture of residential and commercial activities in the downtown area; and
- D. Conserve housing stock. (Ord. 1692 N.S. § 18, 2004; Ord. 559 N.S. § A (part), 1981)

18.24.060 Permitted uses

The following uses shall be permitted in the CC-R district:

- A. Single-family attached, detached, duplex and multifamily dwellings (see development restriction in section 18.24.080);
- B. Retail (excepting locations on First, Second, Third and Fourth Street(s) west of the parcels fronting the west side Monterey Rd.);
- C. Restaurants;
- D. Personal Services;
- E. Medical Offices;
- F. Professional Offices;
- G. Financial Services;
- H. Small Family Day Care.
- I. Commercial recreation uses 3,000 sq. ft. or less
- J. Schools
- K. Business Support Services
- L. Office, Administrative
- M. Arts and Crafts Gallery

- N. Food Service, Takeout

18.24.070 Conditional uses.

The following uses may be conditionally allowed, subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title and finding of consistency with the Downtown plan, if located therein:

- A. Convenience Markets/Stores;
- B. Drive-in Establishments;
- C. Nursery School/Large Family Day Care facility;
- D. Commercial Indoor Recreation uses greater than 3,000 sq. ft..
- E. Nightclubs, theaters, and bars
- F. Any other use which the Planning Commission finds to be of a similar nature to the permitted uses and conditional uses specified in this chapter for the CC-R zoning district.

18.24.075 Downtown Ground Floor Overlay District.

The ground floor combining district of Chapter 18.25 shall apply to the area of the CC-R district designated "GF" Overlay District as shown on the Zoning Map.

18.24.080 Residential Development restrictions within the CC-R district:

Single-family attached, duplex and multi-family dwellings in the CC-R district are subject to the following restrictions:

- A. Residential development control system approval is required for all residential development in accordance with Chapter 18.78 of this title.
- B. Residential development is allowed at a density of one dwelling per two thousand four hundred square feet or greater
- C. Only one detached dwelling per parcel
- D. A Residential Planned Development zoning designation is required for development of more than one contiguous parcel proposed by the same individual or entity
- E. Residential units on parcels fronting Monterey Rd., are permitted only on second story and above locations. No new residential units shall be allowed in the area bounded by Second Street, Depot Street, Fourth Street and Monterey Road, except as part of mixed use projects. (Ord. No. 1692 N.S. § 3, 2004)

18.24.090 Accessory uses.

The following accessory uses are permitted in the CC-R district:

- A. All uses customarily appurtenant to a permitted residential use. (Ord. 1692 N.S. § 18, 2004; Ord. 559 § A (part), 1981)

18.24.100 Site development standards.

The following site development standards shall apply in the CC-R district:

- A. Minimum lot area, six thousand square feet;
- B. Minimum lot width, fifty feet. Minimum lot width for two or more dwellings shall be sixty feet;
- C. Minimum lot depth, one hundred feet.
- D. Maximum building coverage, seventy-five percent;
- E. Minimum setbacks, commercial and mixed use development:
 - 1. Front, zero feet,
 - 2. Rear, zero feet,
 - 3. Side, zero feet;

Unless adjacent to a residential use, in which case the setback shall be a minimum of twenty-five feet or a distance deemed appropriate by the Architectural and Site Review Board after reviewing specific site planning and architectural considerations;

- F. Minimum setbacks, residential:
 - 1. Front, twenty-five feet.
 - 2. Rear, twenty feet,
 - 3. Side, five feet;

Unless part of a planned development, in which case setbacks may vary in accordance with the approved design layout;

- G. Maximum height three stories; thirty-five feet; or 45 ft. with a minimum of 10 ft. devoted to a roof element on a three story structure.
- H. Side street side yard for residential development. A side yard along the side street lot line of a corner lot shall have a width of not less than fifteen feet or one-half the required depth of the front yard, whichever is greater;
- I. Cul-de-sac lot width, minimum of forty feet as measured along the front property line. (Ord. No. 1692 N.S. § 3, 2004)

18.24.110 Commercial uses--Performance standards.

In order to achieve residential compatibility with existing dwellings in the CC-R zoning district, the following standards shall apply to proposed commercial uses when they abut residential property:

- A. A trip generation figure of not more than ten trips per one hundred square feet of floor area must be characteristic of the proposed use.
- B. Landscaping, including vegetative screening of the use from adjacent residential structures, shall account for a minimum of ten percent of the lot area.
- C. Noise levels emanating from the commercial enterprise may not exceed sixty dBA at the property perimeter.
- D. Commercial structures must be designed to include a transition in height and mass when constructed adjacent to an existing residential unit
- E. Hours of business operation must be compatible with a residential environment. Should a commercial use be active during the evening hours, noise levels shall not exceed forty-five dBA, as measured at the property boundary.
- F. All proposed commercial use conversion or commercial building expansion shall be subject to site and architectural plan approval by the Architectural and Site Review

Board. Minimum front yard setback standards shall be increased by up to twenty-five feet if it is found necessary to maintain the residential character of the neighborhood in which the use conversion or building expansion is proposed. (Ord. 1692 N.S. § 18, 2004; Ord. 1111 § 15, 1992; Ord. 559 N.S. § A (part), 1981)

18.24.120 Other required conditions.

A. Architectural and site plan approval by the Architectural and Site Review Board shall be required for construction of any residential dwelling which would result in the establishment of two or more dwellings on any parcel with a street frontage less than sixty feet or an area less than six thousand square feet.

B. All new residential construction shall conform with provisions of the housing replacement program as set out in Chapter 15.30 of this title (Ord. 1692 N.S. § 18, 2004; Ord. 1111 N.S. § 16, 1992; Ord. 1055 N.S. § C (part), 1991; Ord. 899 N.S. § 29, 1989; Ord. 783 N.S. § 3 (part), 1986)

EXHIBIT “D”

Article IV. Downtown Administrative Use Permits

- 18.54.240 Purpose of permits.
- 18.54.250 Application—Contents.
- 18.54.260 Application Process.
- 18.54.270 Evaluation, Conditions and Findings.
- 18.54.280 Expiration--Extensions.***

18.54.240 Purpose of permits. The purpose of Downtown Administrative Use Permits is to allow for Commercial, Professional and Medical Office uses, and Personal Services uses, to locate in first floor locations on parcels that located in the Ground Floor Overlay District fronting Monterey Road or Third Street, upon a determination that ~~a building is not appropriately designed and/or located, and/or~~ the retail market is not sufficiently strong, to accommodate a retail use, and therefore that ground floor office or personal service uses may be allowed. *Additionally, ground floor personal service uses may be allowed if the use has a retail component and will provide a continuity of display window visual interest that includes the retail component.*

18.54.250 Application—Contents. An application for a Downtown Administrative Use Permit (DAUP) shall be made by the property owner or agent thereof, on a form issued by the Community Development Department. An application shall be accompanied by the following information except as may be waived by the Community Development Director for proposed uses in existing structures:

- A. Vicinity map;
- B. Site plan;
- C. Floor plan;
- D. Building elevations for facades along Monterey Avenue and Third Street;
- E. Signing and landscape plan;
- F. Statement of proposed operations, including but not limited to number of employees and proposed hours of operation.
- G. Either one or both of the following:
 - i. A statement that the building is not designed and/or located appropriately to accommodate retail use(s); or
 - ii. Materials which demonstrate that the subject space in the building has been advertised for lease to retail tenants for at least 90 days, but the owner has been unable to locate a suitable retail tenant at market rates.
- H. Other materials as required by the Community Development Department.

18.54.260 Application Process.

- A. An application for a Downtown Administrative Use Permit shall be filed with the Community Development Department, in a form prescribed by the Community Development Director. After an application is deemed complete

by the Community Development Department. such application shall be routed to affected City departments for comments.

- B. The Department shall notify by mail the applicant and owners of property located within 300 feet of the proposed site of the proposed use and application for a Downtown Administrative Use Permit, at least ten days prior to the scheduled date for decision by the Department, in order to receive comments. The Department should also notify the Chamber of Commerce and other organizations with a known interest in Downtown Morgan Hill.
- C. After the notice period has occurred and comments have been considered, the Community Development Director will take action on the DAUP. Appeals of the decision of the Community Development Department shall be filed within 10 days, and appeals shall be considered by the Planning Commission at a noticed public hearing. Appeals of the decision of the Planning Commission shall be filed within 10 days, and appeals shall be considered by the City Council at a noticed public hearing. The decision of the City Council shall be final.

18.54.270 Evaluation, Conditions and Findings.

Evaluation. The Community Development Director or designee shall evaluate the application for consistency with the following criteria:

- 1. The suitability of the site and building for the proposed use;
- 2. The impact of the use on the surrounding properties, and on the CC-R District in general.
- 3. The impact of the use on traffic circulation and planned capacity of the street system.
- 4. The compatibility of the use and design with adjacent uses within the district and its surroundings;
- 5. Whether the use will adversely affect the peace, health, safety, morals or welfare of persons residing or working in the vicinity of the use;
- 6. Whether the use will impair the utility or value of property of other persons located in the vicinity of the site;
- 7. The applicability and conformity of the use with provisions of Chapter 8.40, hazardous materials, as existing or hereafter amended;
- 8. Review of the building with regard to suitability of design and location for accommodation of first floor retail use(s);
- 9. Review of materials submitted by the applicant and determination that the subject space in the building has been advertised for lease to retail tenants for at least 90 days, but the owner has been unable to locate a suitable retail tenant at market rates;
- 10. Whether the use will provide a public benefit to the City and its citizens.
- 11. ***Vacancy rate for commercial buildings in the Downtown core.***
- 12. ***Whether the use has a retail component and will provide a continuity of display window visual that includes the retail component.***

Conditions. The Community Development Director may impose reasonable conditions on an approval of a Downtown Administrative Use Permit. Conditions may include, but shall not be limited to, conditions requiring a review of the use at some future time or upon certain triggering event(s); conditions providing for expiration of the Administrative Use Permit at some future time or upon certain triggering event(s); conditions imposing requirements for site maintenance and/or improvements; *conditions requiring a retail component to accompany the primary use and maintenance of display window visual interest that includes the retail component*; conditions requiring installation and maintenance of landscaping, regulation of vehicular ingress and egress, traffic circulation, regulation of signs, establishment of development schedules or time limits for performance or completion, and/or any other conditions as deemed necessary by the Community Development Director.

Findings. Approval of and issuance of the Downtown Administrative Use Permit shall be subject to the Community Development Director making one or more of the following findings:

~~1. The building is not designed and/or located appropriately to accommodate retail use(s); and/or~~

~~2.1. The subject space in the building has been advertised for lease to retail tenants for at least 90 days, but the owner has been unable to locate a suitable retail tenant at market rates; or~~

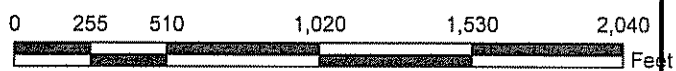
~~2. The vacancy rate for commercial space exceeds five (5) percent in the Ground Floor Combining District (The Downtown Association or other entity as determined by the City shall conduct a vacancy rate survey in April and October of each year); or,~~

~~3. If the use is personal service, the applicant has demonstrated that the use provides a continuity of display window visual interest that includes a retail component.~~




18.54.280 Expiration--Extensions.

A. Approval of a Downtown Administrative Use Permit shall be valid for three (3) years from the date of approval.

B. At any time within the stated period, the approval may be extended one or more times by the Community Development Director for up to up to three (3) years for each extension, upon the applicant requesting in writing such extension and paying the established fee. The application process, including public noticing and appeals, shall occur in accordance with Section 18.54.260. Approval of a Downtown Administrative Use Permit extension shall be subject to the Community Development Director making the required findings in Section 18.54.270. The Community Development Director may impose reasonable conditions on an approval of a Downtown Administrative Use Permit as outlined in Section 18.54.270. Conditions imposed on an extension may be different from the conditions imposed on the originally approved Downtown Administrative Use Permit.



Downtown Boundaries

-  Central Commercial Residential Zoning District
-  Downtown RDCS Boundary
-  DowntownPlan



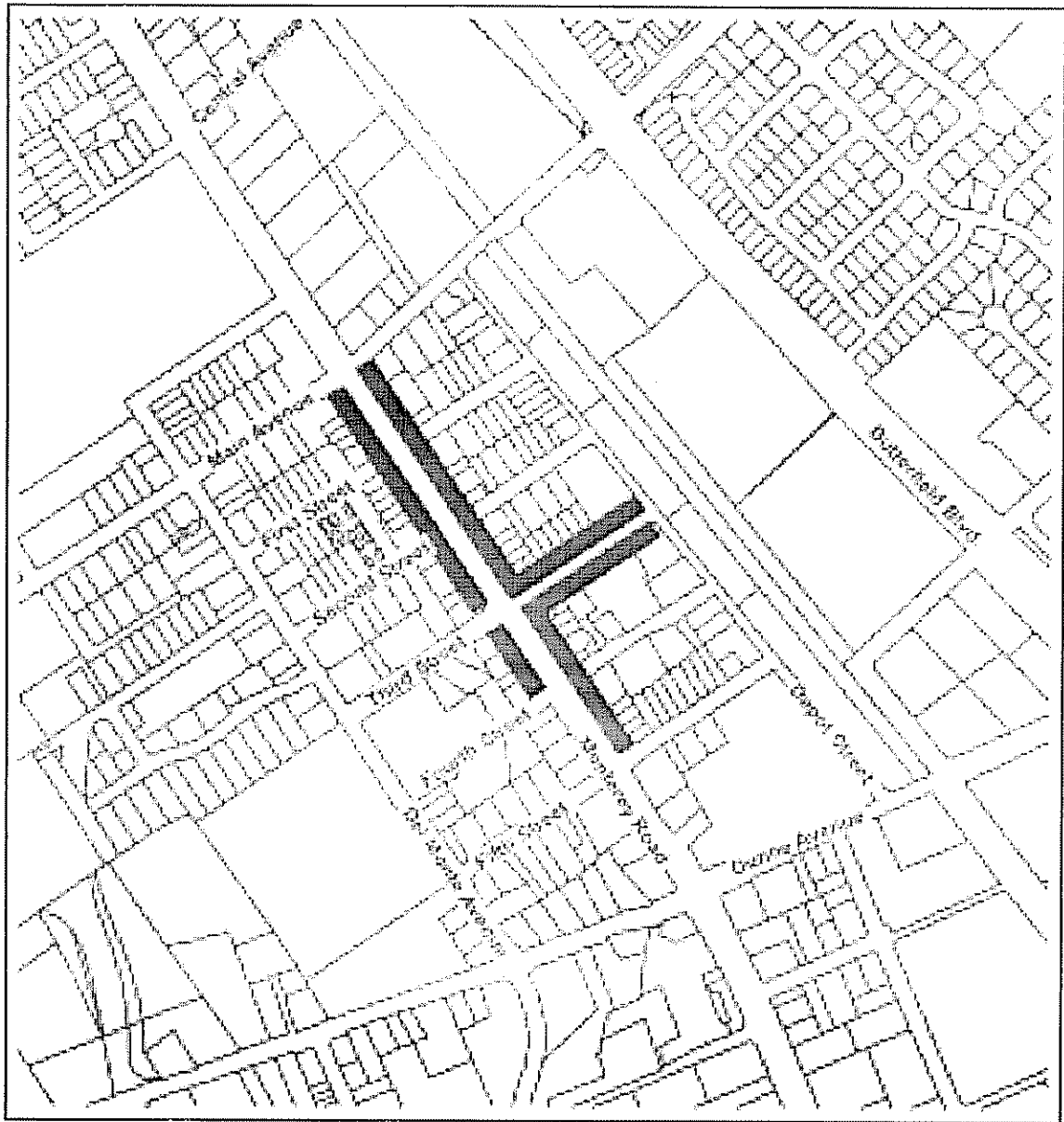


Figure 7: Ground Floor Use Restricted Area

OFFICE BUILDINGS EXCLUDED FROM GF OVERLAY DISTRICT



Southwest corner of Monterey and First



Southeast corner of Monterey and Fourth

Land Use Strategies Key

1. Infill Commercial
2. Granada Theater Retention and Enhancement
3. Third Street Commercial Focus
4. High Density Residential
5. Mixed Use Commercial Infill
6. Commercial and/or Medium Density Residential
7. Retention and Improvements of Existing Parking Lots
8. Public Parking
9. Transit-oriented Development
10. Medium Density Residential
11. Residential and Residential-to-Commercial Conversions
12. Residential Conservation and Enhancement

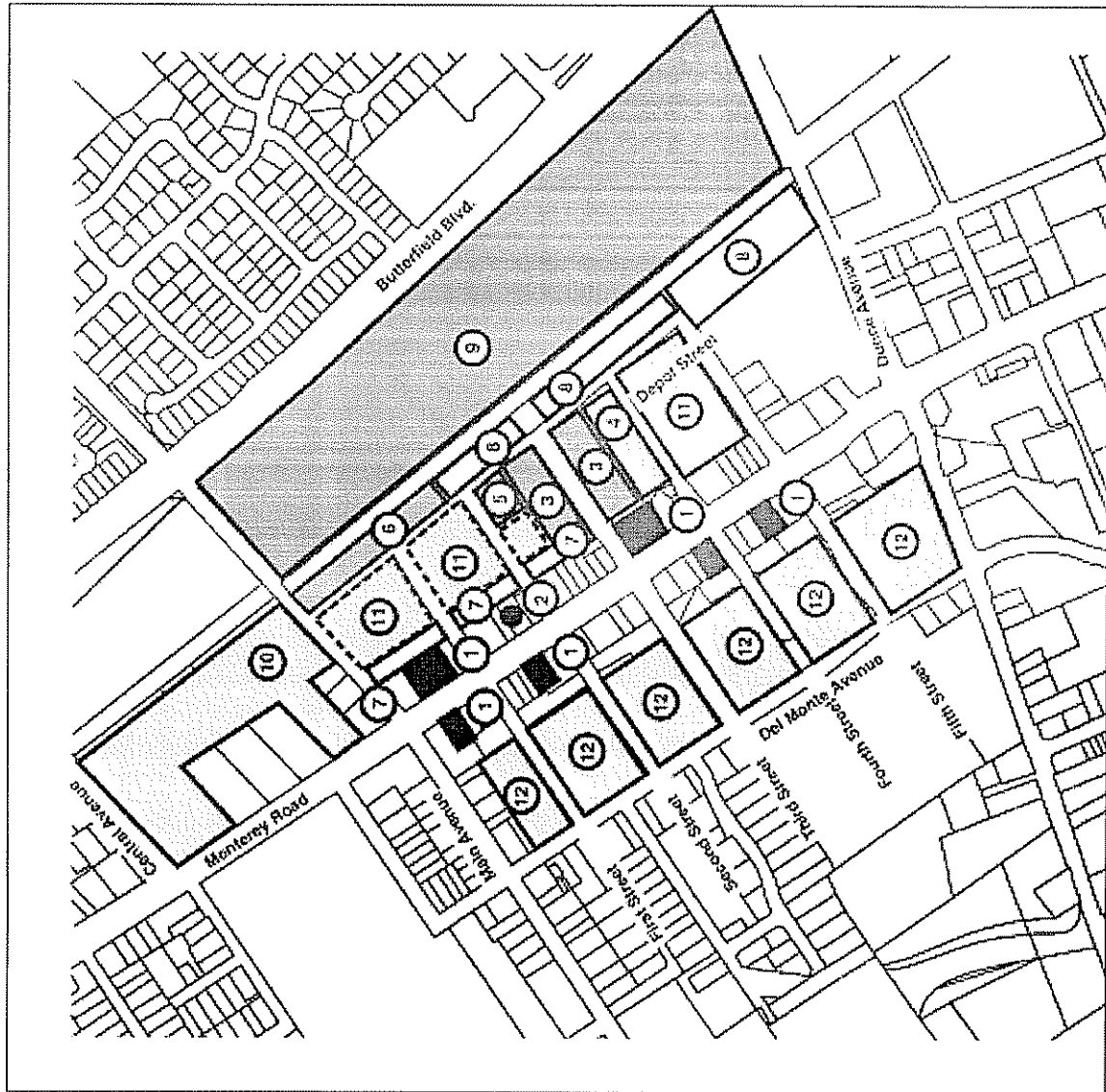


Figure 6: Land Use Strategies